

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DR. DOE, M.D., DR. DOE
2, M.D., NURSE DOE, R.N.,
SCIENTIST DOE, A.S.C.P.,

Plaintiffs,

-v-

3:21-CV-1078

HON. KATHY HOCHUL,
Governor of the State of
New York, in her personal
and official capacity, HOWARD
A. ZUCKER, Commissioner
of the New York State Department
of Health, in his personal
and official capacity, and
OUR LADY OF LOURDES,
INC.,

Defendants.

DAVID N. HURD
United States District Judge

ORDER

On August 26, 2021, the New York State Department of Health adopted an emergency regulation that required most healthcare workers to be vaccinated against COVID-19 within the next thirty days. N.Y. COMP. CODES R. & REGS. tit. 10, § 2.61(c) (2021). As relevant here, § 2.61 eliminated a religious exemption included in the first iteration of this mandate.

After a group of healthcare workers who object to the available COVID-19 vaccines on religious grounds filed a 42 U.S.C. § 1983 action against New York State Governor Kathy Hochul (“Hochul”) and New York State Health Commissioner Howard A. Zucker (“Zucker”), this Court preliminarily enjoined the State’s enforcement § 2.61 pending a resolution of the merits of those plaintiffs’ constitutional claims. *Dr. A. v. Hochul*, –F. Supp. 3d–, 2021 WL 4734404 (N.D.N.Y. Oct. 12, 2021).

The named plaintiffs in this § 1983 action are also medical professionals with a similar religious objection to the existing COVID-19 vaccines. Dkt. No. 1. They allege that their employer, defendant Our Lady of Lourdes Memorial Hospital (“Our Lady of Lourdes”), suspended them without pay because they refused to be vaccinated. *Id.* They seek a temporary restraining order and preliminary injunction that directs Our Lady of Lourdes to reinstate them to their positions pending a resolution of the merits of their own constitutional claims. Dkt. No. 2.

Upon review of plaintiffs’ memorandum of law and supporting documentation, it is

ORDERED that

1. Plaintiffs’ motion for a temporary restraining order against defendants Hochul and Zucker is DENIED as moot because those defendants remain

bound by the existing preliminary injunction entered in *Dr. A. v. Hochul*, –F. Supp. 3d–, 2021 WL 4734404 (N.D.N.Y. Oct. 12, 2021);

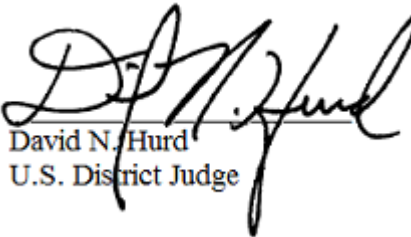
2. Plaintiffs’ motion for a temporary restraining order against defendant Our Lady of Lourdes is DENIED;

3. Defendants shall respond to plaintiffs’ request for a preliminary injunction no later than Wednesday, October 20, 2021 at 5:00 p.m.; and

4. Plaintiffs’ reply, if any, shall be filed no later than Monday, October 25, 2021 at 5:00 p.m.

IT IS SO ORDERED.

Dated: October 14, 2021
Utica, New York.



David N. Hurd
U.S. District Judge